

**REGULAR MEETING
of the
CITY OF RIALTO
CITY COUNCIL/REDEVELOPMENT AGENCY**

**MINUTES
April 28, 2009**

A regular meeting of the City Council/Redevelopment Agency of the City of Rialto was held in the City Council Chambers located at 150 South Palm Avenue, Rialto, California 92376, on Tuesday, April 28, 2009.

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This meeting was called by the presiding officer of the Rialto City Council in accordance with the provisions of **Government Code §54956** of the State of California.

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CALL TO ORDER

Mayor Pro Tem Baca Jr. called the meeting to order at 5:00 p.m.

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The roll was called and the following were present: Mayor Pro Tem Baca Jr., Council Members Scott and Palmer. Also present were City Administrator Garcia and City Clerk McGee. Mayor Vargas and Council Member Robertson were absent.

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CLOSED SESSION

1. Conference with Legal Counsel – Existing Litigation. The City Council and Redevelopment Agency Board will discuss the following pending litigation pursuant to Government Code Section 54956.9(a):

(a) City of Rialto v. United States Department of Defense, et al.
(United States District Court Case No. EDCV 04-00079)

CLOSED SESSION

2. Conference with Real Property Negotiator. The City Council and Redevelopment Agency Board will confer with its real property negotiator concerning the following properties pursuant to Government Code Section 54956.8:

A. Subject: Price and Terms of Purchase of Real Property
Location: Portion of #0264-201-03 – 8.83 acres of
Vacant Land
Negotiators: Robb R. Steel, Redevelopment Agency
Bruce Cash (Owner's Representative)

- B. Subject: Price and Terms of Rental of Real Property
Location: APN # 0264-151- 79, 80, 81 - 3.08 Acres of Vacant Land
Negotiators: Robb R. Steel, Redevelopment Agency
Atkinson Construction, LP
- C. Subject: Price and Terms of Purchase of Real Property
Location: Real Property located at 429 W. Rialto Avenue, Rialto, CA
Negotiators: Robb R. Steel, Redevelopment Agency
John Mulrooney (Owner's Agent)
- D. Subject: Price and Terms of Sale of Easement
Location: Portions of APN # 0240-251- 28 and 29
Negotiators: Robb R. Steel, Redevelopment Agency
Southern California Edison
- E. Subject: Price and Terms of Purchase of Real Property
Location: 126 South Olive Avenue (APN #0130-251-28)
Negotiators: Robb R. Steel, Redevelopment Agency
US Bank National Association

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Motion by Council Member Palmer, second by Council Member Scott and carried by a 3-0 vote to go into Closed Session. Mayor Vargas and Council Member Robertson were absent.

City Council went into Closed Session at 5:01 p.m. and returned at 6:00 p.m.

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CALL TO ORDER

Mayor Vargas called the meeting to order at 6:05 p.m.

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The roll was called and the following were present: Mayor Pro Tem Baca Jr., Council Members Robertson, Scott and Palmer. Also present were City Administrator Garcia, City Attorney Gutierrez and City Clerk McGee. Mayor Vargas was absent.

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Pledge of Allegiance and Invocation

Council Member Scott led the pledge of allegiance and Lewis Frisby, Minister – Rialto Church of Christ gave the Invocation.

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CITY ATTORNEY'S REPORT
ON CLOSED SESSION

City Attorney Jimmy Gutierrez stated that the City Council discussed all the matters listed on the closed session.

Item 1, Status of the litigation, City of Rialto v. United States Department of Defense, pertaining to perchlorate contamination to the City's groundwater. No action was taken.

Item 2, Conference with Real Property Negotiator regarding the five properties listed. 2A – the City Council gave direction. 2B – City Council gave direction but no action was taken. 2C – City Council gave direction. 2D – An Easement located on airport property, City Council gave direction. 2E – no discussion due to a lack of quorum.

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PRESENTATIONS

Phillip L. Rayner, unites Steelworkers, Local 7600 gave a presentation regarding "Buy American" Resolution when using stimulus monies.

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Mayor Pro Tem Baca gave Recognition to Lea Michelle Cash for Woman of the Year nominated by Mayor Vargas.

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Mayor Pro Tem Baca Jr. presented a Proclamation for Emergency medical Services Week to Fire Chief Robert Espinosa.

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Council Member Scott left the dais.

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Joe Flores, Jr. – BIDA gave an annual update to City Council.

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Council Member Scott returned to the dais.

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Police Chief Mark Kling provided an update regarding Officer Chris Guerrero who is in the hospital due to an unknown illness.

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CONSENT CALENDAR

A. WAIVE FULL READING OF ORDINANCES

1. Waive reading in full, all ordinances considered at this meeting.

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B. APPROVAL OF WARRANT RESOLUTIONS

1. Resolution No. 38 (4/10/09)
2. Resolution No. 39 (4/17/09)

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C. APPROVAL OF MINUTES

1. Regular RDA/City Council Meeting – April 14, 2009

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D. SETTING OF PUBLIC HEARINGS

1. Request City Council to set a Public Hearing for the May 12, 2009 City Council Meeting to consider and approve the City's Amended 2008-2009 Consolidated Plan One-Year Action Plan.
2. Request City Council to set a Public Hearing for the May 12, 2009 City Council Meeting for the placement of liens (delinquent refuse collection accounts) against the properties shown on the attachment.

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E. MISCELLANEOUS

1. Request City Council to approve Ingress/Egress Easement on the City owned Lot 10 of Tract 6304 and authorizing the City Attorney to prepare an Easement Agreement for Lots 5-9.
2. Request City Council to approve the Notice of Completion for the City Hall Restroom Remodel Project, Project Nos. CB0345 and 050206.
3. Request City Council to approve the Notice of Completion for the Citywide Curb, Gutter & Sidewalk Project, and Project Nos. 080800 & CB0288.
4. Request City Council to approve the Notice of Completion for the Citywide Sewer Collection Manhole Repair and Replacement, Project No. 080507-00.
5. Request City Council to approve an increase in Purchase Order No. 2007-3842 amount by \$50,000 to accommodate additional Cost to perform Storm Drain Study for Unincorporated County Area.
6. Request City Council to approve the Fourth Amendment to the Joint Venture Agreement between the City of Rialto and Rialto Industrial Park, LTD.

CONSENT CALENDAR

PUBLIC HEARING

TAB 1 – 2009 Weed Abatement Program

E. MISCELLANEOUS

Motion by Council Member Scott, second by Council Member Robertson and carried by a 4-0 vote to approve the Consent Calendar as presented. Mayor Vargas was absent.

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Fire Marshal Norma Barajas stated that this is a public hearing for the 2009 Weed Abatement Program.

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Mayor Pro Tem Baca Jr. declared the public hearing open. No one came forward.

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Motion by Council Member Scott, second by Council Member Palmer and carried by a 4-0 vote to close the public hearing.

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Motion by Council Member Palmer, second by Council Member Scott and carried by a 4-0 vote to adopt **Resolution No. 5693** authorizing an increase in the 2009 Weed Abatement Program. Mayor Vargas was absent.

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PUBLIC HEARING

TAB 2 – 2009-2010 Consolidated Plan One Year Action Plan

Larry Thornburg, Recreation and Community Services Director stated that this is the Annual Community Development Block Grant funding recommendations. All the programs and projects that are listed meet the CDBG objectives of benefiting low/moderate income individuals and organizations. The city has not been notified of the exact amount of money it will receive this year. They are estimating the same as last year, \$1.3 million. Also, though the Federal Stimulus Program, they will be receiving an additional \$546,000 in homeless prevention funds and an additional \$358,000 for capital projects. This will be in the 2008/2009 fiscal year and within the next month they will be considering amendments to the action plan to consider those expenditures. The Committee is recommending they funds six of the eight recipients: The Bethune Center, Center for Healing Childhood Trauma, Option House, San Bernardino County Library, Oldtimers Foundation and the annual match for the \$1.4 million After School Program. All these organization have met or exceeded their 2008/2009 goals to this point. Two programs that received funding this year but are not recommended for funding next year are Legal Aid and Gang Intervention Team. Rather than fund new programs the committee has recommended that the money be reallocated to Agencies that are receiving funding.

PUBLIC HEARING

TAB 2 – 2009-2010 Consolidated Plan One Year Action Plan

Larry Thornburg, Recreation and Community Services Director stated that Option House is eligible for Homeless Prevention Funds. With that in mind the Committee is recommending that they fund Option House for a 3 month period for next year to allow them to continue their normal CDBG funded operation. The remaining nine months be funded through the Homeless Prevention Grant. They are hoping to do a rent deposit program. There were three new programs that submitted and were not recommended for funding. Child Advocates, County Elder Abuse Outreach and Prevention Inland Housing Senior Program, and House of Prayer Food Program. Regarding the Capital portion they have \$855,000 for projects. \$250,000 is annually allocated for repayment of Section 108 loan for the Senior Center. They will fund three projects: Rialto Park Little League Snack Bar Improvements, Code Enforcement Program and Bus Stop Shelter Improvements.

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Mayor Pro Tem Baca Jr. declared the public hearing open.

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ORAL COMMUNICATIONS

Sandra Doyle, Executive Director of the National Council of Negro Women – Bethune Center in Rialto. She thanked the Committee for the recommendation to be funded again this year. They provide job training to at risk youth.

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Gwendolyn Nelson, President of NCNW, thanked the City for the funding they have received in the past and are hopeful to be continually considered.

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Lois Carson, NCNW, thanked the City for considering their grant request for the Bethune Center Program.

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Joseph Rodriguez, Gang Intervention Team, requested reconsideration to grant funding to their program.

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George Bowser, Principal of Bob Murphy School, requested reconsideration to grant funding to the Gang Intervention program.

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Debra Davis, Legal Aid Society, thanked the City for the many years of support. She requested reconsideration to grant funding for their program.

PUBLIC HEARING

TAB 2 – 2009-2010 Consolidated Plan One Year Action Plan

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Motion by Council Member Scott, second by Council Member Palmer and carried by a 4-0 vote to close the public hearing. Mayor Vargas was absent.

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Council Member Robertson stated that they anticipate that they will receive funding like what they received in the past and hopefully more. She would hope they would look at an opportunity to go back and give some reconsideration to the Legal Aid Society and the Gang Reduction Intervention Program. She thanked the NCNW members for coming out and showing their support.

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Motion by Council Member Robertson, second by Council Member Scott and carried by a 4-0 vote to approve the City's 2009-2010 Consolidated Plan One-Year Action Plan. Mayor Vargas was absent.

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PUBLIC HEARING

TAB 3 – Rialto Landscaping and Lighting District No. 2 Annexation of Tract 17219

June Overholt, Chief Financial Officer stated the Landscaping and Lighting Act of 1972 is what permits cities to establish districts to pay for the cost of installation and maintenance of landscaping and street lighting. January 2005 the City Council authorized the landscaping and Lighting District No. 2. Since that time annexation to LMD 2 is a condition of development for all new development projects receiving benefit from arterial or median landscape improvements. A new property owner has applied for annexation into the district. It's the Crestwood communities Tract 17219, 24 single family residential units located near Merrill and Linden Avenues. The property owner has signed a petition and waiver document agreeing to proceed with the annexation process, including the completion of a ballot. The project is consistent with Zone I which is a residential subdivision which includes local street lighting, residential parkway landscaping along the perimeter and entryway in to the new development.

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Mayor Pro Tem Baca Jr. declared the public hearing open. No one came forward.

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Motion by Council Member Scott, second by Council Member Parmer and carried by a 4-0 vote to close the public hearing. Mayor Vargas was absent.

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PUBLIC HEARING

TAB 3 – Rialto Landscaping and Lighting District No. 2 Annexation of Tract 17219

Council Member Scott stated that this is a project they support. One of the biggest complaints they receive is landscaping in the community and how the streetscapes look.

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City Clerk McGee opened the single ballot and read the vote was YES to approve the proposed assessment.

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City Attorney Gutierrez stated that this election carries because it affects only one property owner and in this case it's the developer.

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Motion by Council Member Scott, second by Council Member Palmer and carried by a 4-0 vote to approve proposed assessments set out in the Engineer's Report Rialto Landscaping and Lighting District No. 2 Annexation of Tract 17219 for fiscal year 2009/2010.; adopt Resolution No. 5694 declaring the results of the property owner protest balloting per resolution; and adopt Resolution No. 5695 annexing the new maintenance areas into Landscaping and Lighting District No. 2, confirm approval of the Engineer's Report, authorize the levy and collection of the annual assessment for the District for Fiscal Year 2009-2010. Mayor Vargas was absent.

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NEW BUSINESS

TAB 4 – Third Amendment with RW Beck, Inc. for Phase I of Wastewater Treatment Plant Upgrade

Ahmad Ansari, Public Works Director stated that this is a request to approve the Third Amendment for RW Beck, Inc. for additional work of the Wastewater Treatment Plant. RW Beck oversees the work of Phase I of the Wastewater Treatment Plant. The upgrades and construction are now completed and the commissioning phase is in progress. Their services are also needed for the oversight of the UV System Rehabilitation Project Management. Staff has negotiated an amount of \$189,215. The fees are on time and material basis where they will only be paid on the actual hours worked from May 1st to September 30th of this year.

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Motion by Council Member Scott, second by Council Member Palmer and carried by a 4-0 vote to adopt **Resolution No. 5696** approving Third Amendment with RW Beck, Inc. for Phase I of the Wastewater Treatment Plant Upgrade in the amount of \$189,215. Mayor Vargas was absent.

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NEW BUSINESS

TAB 5 – PSA for City Well No. 3 Replacement Project No. 090400-00

Ahmad Ansari, Public Works Director stated that this is a Professional Services Agreement for City Well No. 3 Replacement Project. The well is located in Lytle Creek Basin an adjudicated basin with the City of Rialto having a little over 3000 acre feet of production per year. Current condition of the well is substandard, deteriorated and in need of replacement. Since its construction in 1985 the production has dropped from a little over 1000 acre feet. In terms of the gallons per minute the production has dropped from 2000 in 1985 to the current level of 850. SA Associates was determined to be the most suitable firm and staff negotiated the fee of \$285,000 and a schedule of 18 months. There will be four phases involved. The project is an approved CIP project. The total cost of the project is estimated at being a little over \$2 million which includes \$285,000 for soft costs, \$1.6 million for the construction and \$120,000 for project management.

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Council Member Scott stated that they sent out RFP's but they did not send out a Request for Bid on this project.

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Ahmad Ansari, Public Works Director stated that this is Professional Services not a Contractor.

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Council Member Scott stated that they can still bid out Professional Services.

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Ahmad Ansari, Public Works Director stated that the typical process for hiring consultants in civil engineering is to use the SOQ list and the prequalified consultants that are on the list and issue a request for proposal. This is different than a construction contract which typically goes for bid.

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Council Member Scott stated that he has a concern for a \$285,000 contract that was not bid out. Where all these people aware of the budget amount for the project. Did they all receive a copy of the Engineer's estimate?

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Ahmad Ansari, Public Works Director stated that it's not a Construction Contract but a Professional Services Agreement for Civil Engineering Services.

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NEW BUSINESS

TAB 5 – PSA for City Well No. 3 Replacement Project No. 090400-00

Council Member Robertson stated that she noticed that the committee had short listed it down to two firms. She would like information on SA Associates and why the committee recommended one over the other. Also under the financial impact it states they are using the remaining funds out of a \$2.6 million loan that came from ABAG. What were the remaining funds and they are bringing funds from the Water Fund. She is concerned with the loan. If its money available and a loan then its money that will have to be paid back. Again she wants to make sure the money they are accumulating from the water fund is not part of the perchlorate surcharges because this was strictly for litigation and sustain the defense against the PRPs. Also she'd like to know what portion is remaining of the ABAG loan that is available towards this project.

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Ahmad Ansari, Public Works Director stated that from the original \$2,686,000 received in 1998 approximately \$2.5 million is still available.

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Council Member Robertson asked what is the benefit of a loan from 1998 because they haven't used it. Because at some point when they use it they will have to pay it back at a percentage.

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Ahmad Ansari, Public Works Director stated it's his understanding that the City has been paying payments on this loan.

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June Overholt, Chief Financial Officer stated that the ABAG funding was first established to build a reservoir in the City. For whatever decisions that were made at that time the reservoir size was reduced from the original intent but the funding received was still the full amount so they still have funding left over. Since that time Public Works has been working to find a project but with perchlorate it was put on hold a lot of the wells that were planned to use those funds.

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Council Member Palmer asked since there are concerns on how this PSA was recommended for approval should they table this item.

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Ahmad Ansari, Public Works Director stated that the Public Works Dept. has had an SOQ list of prequalified consultants for Professional Services on file.

NEW BUSINESS

TAB 5 – PSA for City Well No. 3 Replacement Project No. 090400-00

Ahmad Ansari, Public Works Director stated that they have lists for different categories. Every time a project comes along and they need professional services they contact the people on that list and then whoever chooses to submit their qualifications and fee proposal then staff will go through the selection process. They conduct interviews and negotiate fees. This is quality based and not on the lowest bid. In this case, they first interviewed 20 firms and then narrowed it down to two firms and held second interviews. SA Associates had a better proposal and a better schedule overall which ranked them number one. They renew the list every 2 years and this list was recently renewed last summer.

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Council Member Scott stated that a Professional Services Agreement is no different, in his opinion, than a Contractor. It should have been bid out. If they have 20 people on a list it should have been bid out especially in today's economics. They need to grow up and start spending the taxpayers' money responsibly. His vote on this is NO.

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Mayor Pro Tem Baca Jr. recommended tabling the item.

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Council Member Robertson stated that she doesn't have a problem with tabling the item but is this going to hold up the project any further.

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City Administrator Henry Garcia stated that they have the money necessary to proceed forward. He has no problem is the City Council's decision is to bid the project in light of comments made. The direction he is hearing is send it out to bid and come back with a competitive price.

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Council Member Robertson stated that since this concern has been brought up she would like for them to be mindful as it relates to contingency fees but also when they do things sole source or making it open to the public.

Motion by Mayor Pro Tem Baca Jr., second by Council Member Palmer and carried by a 4-0 vote to Table TAB 5. Mayor Vargas was absent.

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ORAL COMMUNICATIONS

Jess Vizcaino, Representative of Congressman Baca's Office gave an update on the events and activities through the Congressman's Office.

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Stefan Lucier – Water Dept, Public Works Employee, expressed his concern regarding the option of selling or contracting out water services.

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Daniel Phillips, expressed his gratitude to the City Council, Police Department, Public Works and Code Enforcement for helping him handle all his issues efficiently and courteously.

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REPORTS

Council Member Scott stated that they were in Sacramento for Legislative Action Days.

He took a trip to Washington DC where he met with the Federal EPA staff regarding the perchlorate issue. They have an action plan and a remediation plan.

He also met with the Interior Director from Fish and Wildlife to discuss the Pepper Avenue Extension Project. He thanked Congressman Baca for setting up the meeting.

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Council Member Robertson stated that she attended Legislative Action Days in Sacramento.

She stated that they had a press conference at Enertech who was receiving \$1 million incentive check from Southern California Gas Co. for its initiative to conserve energy and protect the environment.

She met with EDCO Waste Management to do improvements on the franchise agreement, such as greening part of the fleet.

She stated in regards to the employee comments regarding California American Water Company she would like to hear the suggestions given when the employees met with the Mayor and City Administrator.

She congratulated Artist and Joanne Gilbert for their Grandson Jarron Gilbert, a defensive end for being drafted to play for the Chicago Bears. She congratulated Janis Strong, League President for the North Rialto Little League, whose son was also in the draft. Congratulations to Victor Butler, Eisenhower High School graduate, a defensive end who will play for the Dallas Cowboys.

REPORTS

Council Member Robertson stated that Caltrans held their annual HOOP Tournament and next year she will be the reigning champion for the woman's division.

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Council Member Palmer stated that he attended the Legislative Actions Days.

He stated that he participated in Earth Day and worked for three hours on North Lilac.

Council Member Palmer stated that he attended a Neighborhood Watch Meeting on Monday.

He offered prayers to Officer Chris Guerrero.

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Mayor Pro Tem Baca Jr. stated that he was in Sacramento for the Legislative Action Days to lobby local legislators.

He attended RUSD Puttin On The Ritz event.

He attended resident's Paula Medina's 75th Birthday at Sizzlers.

He thanked all the volunteers and staff who participated in the Earth Day event.

He met with Dr. Cebrun, Superintendent for the Rialto Unified School District, who is trying to bridge the gap between the School District and the City.

He asked that everyone keep Officer Chris Guerrero in their prayers.

He stated that Mayor Vargas could not be at the meeting because she had minor surgery.

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Motion by Council Member Scott, second by Council Member Palmer and carried by a 4-0 vote to excuse the Mayor from the meeting.

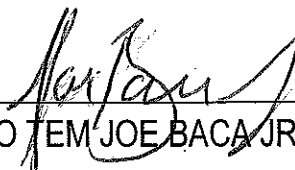
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ADJOURNMENT


Motion by Council Member Robertson, second by Council Member Palmer and carried by a 4-0 vote to adjourn the City Council Meeting.

The City Council adjourned at 8:00 p.m.

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MAYOR PRO TEM JOE BACA JR.

ATTEST:


CITY CLERK BARBARA A. MCGEE